

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

9 DONALD SHERMAN,)
10 Petitioner,) 2:02-CV-1349-LRH-LRL
11 vs.)
12 E.K. McDANIEL, *et al.*,) **ORDER**
13 Respondents.)
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15 On October 8, 2010, this court entered an order lifting the stay and reopening proceedings in
16 this case. Docket #102. In addition, the court allowed petitioner thirty (30) days within which to
17 file an amended petition for a writ of habeas corpus. *Id.* On November 8, 2010, petitioner filed his
18 amended petition (docket #103).

19 The amended petition having been filed, the court shall now set a schedule for further
20 litigation of this action.

IT IS THEREFORE ORDERED:

22 1. **Response to Petition.** Respondents shall have until and including **January 14, 2011**,
23 to file and serve an answer or other response to petitioner's amended petition for writ of habeas
24 corpus (docket #103).

25 2. **Reply and Response to Reply.** Petitioner shall have **forty-five (45) days** following
26 service of an answer by respondents to file and serve a reply. Respondents shall thereafter have

1 **thirty (30) days** following service of a reply to file and serve a response to the reply.

2 3. **Briefing of Motion to Dismiss.** If respondents file a motion to dismiss, petitioner
3 shall have **thirty (30) days** following service of the motion to file and serve an opposition to the
4 motion. Respondents shall thereafter have **thirty (30) days** following service of the opposition to
5 the motion to file and serve a reply.

6 4. **Evidentiary Hearing.** If petitioner wishes to request an evidentiary hearing,
7 petitioner shall file and serve a motion for an evidentiary hearing concurrently with, but separate
8 from, his reply to respondents' answer or his opposition to respondents' motion to dismiss. The
9 motion for an evidentiary hearing must specifically address why an evidentiary hearing is required,
10 and must meet the applicable requirements of 28 U.S.C. § 2254(e). The motion must identify
11 whether an evidentiary hearing was held in state court, and, if so, state where the transcript is located
12 in the record. If petitioner files a motion for an evidentiary hearing, respondents shall file and serve
13 a response to that motion concurrently with, but separate from, their response to petitioner's reply or
14 their reply in support of a motion to dismiss. Petitioner shall thereafter have **twenty (20) days**,
15 following service of respondents' response to the motion for an evidentiary hearing, to file and serve
16 a reply in support of that motion.

17 DATED this 18th day of November, 2010.



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21 LARRY R. HICKS
22 UNITED STATES DISTRICT JUDGE
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